

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

RYAN D. HOBBS,

Plaintiff,

:

Case No. 1:17-cv-441

- vs -

District Judge Michael R. Barrett

Magistrate Judge Michael R. Merz

DEREK FAULKNER, et al.,

Defendants.

:

REPORT AND RECOMMENDATIONS

This case is before the Court on Plaintiff's fourth Motion for Relief from Judgment (ECF No. 115). Hobbs brings the Motion under Fed.R.Civ.P. 60(b)(1), alleging substantive error of law by District Judge Barrett in not making a final order on his Motion for Discovery (ECF No. 63) and his Objections to the denial of discovery (ECF No. 65).

The Court entered final judgment dismissing this case with prejudice on March 29, 2019 (ECF Nos. 75, 76) and Hobbs has appealed from that judgment (ECF No. 77). A final judgment of dismissal renders moot any demand for discovery and thus those questions did not require independent action by the District Judge. In any event, it is was error to dismiss the case without discovery, that is an issue Hobbs can present to the Sixth Circuit in his pending appeal.

The Motion for Relief from Judgment should therefore be DENIED.

November 13, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).